

Extra Information

# 16 - 24

10-17-05

**John Murray**

**From:** Doug Halley  
**Sent:** Sunday, October 16, 2005 10:24 PM  
**To:** John Murray; Don Johnson  
**Cc:** Board of Selectmen  
**Subject:** RE: Assabet Crossing Proposal

Once they access the funds they would be committed to connect. The funds can only be used to alleviate a failure.

**From:** John Murray  
**Sent:** Sun 10/16/2005 7:03 PM  
**To:** Don Johnson; Doug Halley  
**Cc:** Board of Selectmen  
**Subject:** FW: Assabet Crossing Proposal

Bond Counsel has opined yes on Sewer Connections, yes on Assabet Crossing ***ONLY if they have a failed system or if he BoH determines they have a failed system.*** If the BoH made such a determination, would the owners have to hook up immediately?

John

-----Original Message-----

**From:** Gonzalez, Jay [mailto:JGonzalez@palmerdodge.com]  
**Sent:** Sunday, October 16, 2005 10:34 AM  
**To:** John Murray  
**Subject:** RE: Assabet Crossing Proposal

John-

I have reviewed the materials you sent me on Friday, and, although some of the facts are not clear to me, my understanding is that a group of homeowners in Assabet Crossing with failing septic systems want a loan from the Town to pay the costs of a joint sewer connection to replace the septic systems. The proposed loans would be secured by betterment assessments against the homeowners. I assume from the materials you sent that the proposed sewer connection would be on a private way, that the project would be carried out by the private homeowners and that each homeowner would own and be assessed for a portion of the joint sewer connection and the lines to their homes.

You have asked for a memo from me as to the availability of community septic management program loan proceeds for the purpose of making the proposed loans to the private homeowners for the sewer connection project described above. In order to get you a response as quickly as possible for tomorrow night's meeting, I am responding by e-mail (I am going to be unavailable most of the day tomorrow).

We believe that the only statutory authority that exists for the Town to make these types of betterment-secured loans to private homeowners is G.L. c.111, s.127B1/2, which is the statute that authorizes the board of health to enter into agreements with private homeowners to repair, replace or upgrade failing septic systems and that authorizes the town to appropriate and borrow funds for such purpose. Although the statute and DEP's Title 5 regulations are not clear regarding the authority under the statute to fund loans for connections to sewer systems as the means of replacing a failed septic system, we believe that, when that statute is read together with the broad authority granted to towns in G.L. c.29C with respect to loans from the MWPAT, the Town has the authority to make loans to private homeowners for such purpose with the proceeds of a borrowing from the Trust under the provisions of G.L. c.111, s.127B1/2 and G.L. c.29C. In fact, DEP has approved SRF loans for such purpose in

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the past.

Based on this view of the statutory authority and on my understanding of the facts as described above, I believe that the Town could make betterment-secured loans to the private homeowners for the proposed sewer connections provided that:

- 1) Each private homeowner has been determined by the board of health to have a failed septic system
- 2) The board of health enters into an agreement with each private homeowner pursuant to G.L. c.111, s.127B1/2 for their share of the project
- 3) DEP approves the project as an eligible community septic management loan program project
- 4) The Town funds the loans to the private homeowners from the proceeds of a borrowing from the MWPAT.

Please let me know if you have any further questions regarding this matter.

Jay Gonzalez  
Palmer & Dodge LLP  
111 Huntington Avenue  
Boston, MA 02199-7613  
Direct: 617-239-0462  
FAX: 617-227-4420  
www.palmerdodge.com

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**From:** John Murray [mailto:jmurray@acton-ma.gov]  
**Sent:** Friday, October 14, 2005 10:06 AM  
**To:** Gonzalez, Jay  
**Subject:** FW: Assabet Crossing Proposal  
**Importance:** High

Jay,

Could you review the Assabet Crossing Proposal and the WPAT/DEP Comprehensive Septic Betterment Loan program and opine (memo from you) as to the availability of those proceeds for sewer connection costs. It appears it will come up Monday evening.

John

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**From:** Doug Halley  
**Sent:** Friday, October 14, 2005 9:56 AM  
**To:** John Murray  
**Subject:** RE: Assabet Crossing Proposal

The criteria for loaning the money is based on failing septic systems. In order for us to loan the money their systems would have to be declared failed. The program is first come first served with financial need receiving preference. The loans would have to go to individuals and not the group and we would need three quotes. Attached is a description.

-----Original Message-----

**From:** John Murray  
**Sent:** Friday, October 14, 2005 9:29 AM  
**To:** Doug Halley  
**Subject:** RE: Assabet Crossing Proposal

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Doug,

Do you have anything in writing that would allow the Septic Loan monies to be used in this manner?

John

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**From:** Doug Halley  
**Sent:** Friday, October 14, 2005 8:01 AM  
**To:** Don Johnson; John Murray  
**Cc:** Stephen Anderson  
**Subject:** FW: Assabet Crossing Proposal

Assabet Crossing would like this new proposal considered. It would seem that this can't be considered under the current process without reopening the hearings. Please advise.

-----Original Message-----

**From:** Paul Gaboury  
**Sent:** Friday, October 14, 2005 6:31 AM  
**To:** Doug Halley  
**Cc:** carolyn.savello@verizon.net; Frank Zhang; Green's; IAN HIRST; Jeremy A. Greene; Jim King; Paul Haverstock; Perry's; Susan Haverstock  
**Subject:** Assabet Crossing Proposal

As we discussed yesterday, we have drafted a proposal to the Sewer Commission for their review. See attached.

Please advise the time and place for the sewer commission meeting Monday, Oct 17th. so that we may attend.

Thank you for your help in this. It is appreciated.

Regards,

Paul

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